HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 33755 of 1998

Dated 22nd June, 2007

Between

M/s. Mariya Sea Shell, rep. By its Proprietor
Lanke Venkata Rao

…Petitioner

and
The Conservator of Forests, Rajahmundry, EG District, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 33755 of 1998

ORDER:

The petitioner, a proprietary concern, has filed this Writ Petition seeking Writ of Mandamus to declare transport of seashells from Yetumoga of Kakinada Municipality to a place in Tamilnadu or any other place does not amount to forest offence and to issue directions to the respondents not to interfere with transport of seashells.

In the affidavit filed in support of the Writ Petition, it is stated that the petitioner is a resident of Yetumoga, which is a part of Kakinada town in East Godavari District. It is stated that Yetumoga is one of the Wards in Kakinada Municipality and the same is nearer to the sea. It is stated that the petitioner is doing business in collecting seashells from Yetumoga area by engaging labour and transporting to Madras in Tamilnadu and other places where they are utilized for making fancy

items and gift articles. It is the case of the petitioner that such collection of seashells is not prohibited under any law, and though same is not in violation of any provisions of the A.P. Forest Act, 1967, the respondents are interfering with the business of the petitioner.

Counter affidavit is filed by the Divisional Forest Officer, Rajahmundry. In the counter affidavit, while it is admitted that Yetimoga is a Ward in Kakinada Municipality, it is stated that there will be deep water in Yetimoga area and no seashells are available and such seashells are available in adjoining area of Yetimoga, which is notified as wild life sanctuary under Section 26 of the Wild Life (Protection) Act 1972. It is further stated that collection of sea-shells from wild life sanctuary area and transportation of such seashells which contain Molluscan animals is an offence under the Act.

As per the provisions of the Wild Life (Protection) Act, 1972, no person shall destroy, exploit or remove any wild life from the sanctuary or destroy or damage the habitat of any wild animal or deprive any wild animal of its habitat within such sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden. Though it is the case of the petitioner that he is collecting seashells but they are not merely shells but are animals covered by shells. In the affidavit filed in support of the Writ Petition, no particulars are furnished with regard to area from where the petitioner is picking up seashells. It is merely stated that he is collecting seashells in Yetimoga area, a place where, it is stated, there is deep water and where, no seashells are available. It is clearly stated in the counter affidavit that seashells are available in Wild Life Sanctuary area and from such area, unless there is permission, the petitioner cannot destroy or exploit any animals as defined under the provisions of the Wild Life (Protection)

Act 1972. In absence of any particulars furnished by the petitioner indicating the place from where he is collecting the Molluscan animal sea shells, the petitioner is not entitle for any declaration as prayed for.

The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 22-6-2007.
Msnr.